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C O N F I D E N T I A L SECTION 01 OF 02 CARACAS 001555

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TAGS: PGOV PHUM KDEM SCUL VE
SUBJECT: SUPREME COURT GRANTS RCTV TEMPORARY RELIEF

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Classified By: ACTING POLITICAL COUNSELOR DANIEL LAWTON
FOR REASON 1.4 (D)

¶1. (C) SUMMARY. The Supreme Court (TSJ) approved a last-minute injunction August 1 to grant cable network Radio Caracas Television International (RCTV) temporary relief from closure. The decision follows a July 26 announcement by Minister of Telecommunications (CONATEL) Jesse Chacon requiring RCTV to register as a "national" producer and therefore subject itself to the Media Law of Social Responsibility or cease cable broadcasts by August 1. The Venezuelan Chamber of Cable Television Providers (Cavetesu) petitioned the TSJ to grant RCTV relief until CONATEL clarified what distinguishes "national" producers from "international" ones. The BRV continues to try to drive the embattled network from cable television after replacing it on the non-subscription airwaves with a government-funded station. The TSJ's uncharacteristically quick (and positive) response to Cavetesu's petition provides CONATEL with an excuse to craft regulations to better target critical independent media. Separately, a recent TSJ decision to dismiss RCTV's pending legal case against the BRV complicates the network's ability to return to the public airwaves. End Summary.

Chacon: RCTV Must Register...

¶2. (SBU) Minister of Telecommunications and head of the national telecommunications regulatory agency (CONATEL) Jesse Chacon announced July 26 that Radio Caracas Television International (RCTV) must register as a "national" network, change its programming line-up, and adhere to the Media Law of Social Responsibility or cease broadcasting via cable television on August 1. Chacon argued that RCTV produces most of its programs in Venezuela for a local audience, making it a "national" company bound to Venezuelan law. Chacon noted that RCTV failed to register with CONATEL when it began transmitting on cable television July 16. CONATEL gave RCTV five working days to adhere to local law or face renewed closure.

¶3. (SBU) The local media law requires "national" producers to allot 45 minutes of free air time per day for state "information," to carry Chavez' frequent impromptu speeches or "cadenas," and to play the national anthem twice a day. Moreover, Minister of Communications William Lara recently proposed reforms to the media law which would require

national cable television broadcasters to ensure that their channels also carry "cadenas." (Note: Embassy contacts emphasize that jamming "cadenas" into 50 plus cable channels poses extreme technical difficulties. End Note.) Currently, only free to air channels are required to carry live coverage of Chavez' speeches.

... RCTV Refuses

14. (SBU) RCTV's management dismissed Chacon's statements, saying that RCTV is an international company registered in the U.S. Network lawyers noted that RCTV International is affiliated with the Miami-based Coral Productions established in 1983 to seek international markets for RCTV's products. RCTV conceded that most of its products are produced in Venezuela, but also noted they carry non-national programs and cater to an international audience. RCTV airs in Aruba, Bonaire, Curacao, Trinidad and Tobago and is actively seeking markets in South America. The network's lawyers argued that adherence to the media law would negatively affect business by requiring them to air state-sponsored propaganda to their international partners.

15. (SBU) RCTV president Marcel Granier issued a full-page ad in the local newspaper "El Universal" August 1 and referred to the measure as a "new attack" against the network. In the communiquQ, Granier accused BRV officials of not implementing the measure until RCTV began broadcasting via cable. Granier called on CONATEL to "clarify" the requirements that distinguish "national" producers from "international" ones. He accused the BRV of acting in an "abusive" and "arbitrary" manner against RCTV International as it had in the lead-up to RCTV's closure May 28. Granier also criticized the state-dependent media for neglecting its "fundamental responsibility" of providing Venezuelans with unbiased information.

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TSJ Provides Relief--For Now

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16. (SBU) Placing cable providers between a rock and a hard place, CONATEL threatened to levy hefty fines on cable providers that continued to transmit RCTV after August 1. Following Chacon's statements, Mario Seijas, President of the Venezuelan Chamber of Cable Television Providers (Cavetesu), said the Chamber would abide by CONATEL's decision and dismissed allegations that the measure was politically motivated. However, on July 31 Cavetesu members held several meetings with CONATEL officials and requested the agency extend RCTV's deadline to register. Seijas suggested CONATEL and RCTV enter into dialogue regarding the matter.

17. (SBU) In a last ditch effort, Cavetesu petitioned the Constitutional Chamber of the Supreme Court (TSJ) on August 1 to stay CONATEL's order and grant cable providers relief from sanctions until CONATEL provided further guidance on which networks should be classified as "national" producers. In the petition, Cavetesu noted that CONATEL's decision would also affect over 40 regional media networks that were unregistered and would cause undue hardship to its customers.

The TSJ issued an uncharacteristically quick response (in less than 24-hours) and, equally uncharacteristically, ruled against the government and in Cavetesu's favor. Following the TSJ's decision, Chacon stated that CONATEL would respect the Court's decision but insisted that RCTV register as a "national" broadcaster.

Pending RCTV Legal Case Dismissed

18. (SBU) Separately, RCTV suffered a set-back regarding its pending legal case against the BRV for the government's decision to revoke RCTV's broadcasting license. The TSJ refused to provide relief for the station, saying the case did not meet the necessary requirements to receive the Court's protection. The ruling greatly complicates the network's prospects of returning to the public airwaves in the near future.

Comment

19. (C) Chacon's July 27 remarks and the TSJ's decision to dismiss RCTV's legal case against the BRV are further steps in the government's persistent efforts to permanently eliminate RCTV from the airwaves. CONATEL's measure completely contradicts earlier statements by BRV officials that RCTV would be allowed to operate via cable without government interference. Post's sense is that RCTV's claim to being an "international" producer because it caters to both a domestic and international audience is relatively weak, especially since the bulk of its production takes place in Caracas. However, RCTV's position is somewhat strengthened by its long-time affiliation with a U.S. production company. Moreover, the BRV is clearly applying the interpretation of existing broadcast regulations selectively against RCTV. While the TSJ's uncharacteristically quick response has bought RCTV some time, it also provides CONATEL the opportunity to further tighten the screws on RCTV and other media critical of the government.

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